

1 Lauren M. Hausman, (CA Bar No. 349514)
2 **COPYCAT LEGAL PLLC**
3 113 N San Vicente Blvd
4 Suite 232
5 Beverly Hills, CA 90211
T: (877) 437-6228
E: lauren@copycatlegal.com

6
7
8 Attorney for Plaintiff
9 MICHAEL GRECCO PRODUCTIONS, INC.
10
11

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14
15

16 MICHAEL GRECCO
17 PRODUCTIONS, INC.,
18

19 Plaintiff,
20

21 V.
22

23 TIKTOK INC.,
24

25 Defendant.
26

27 Civil Action No. 2:24-cv-04837
28

29 **AMENDED COMPLAINT**
30

31 Plaintiff Michael Grecco Productions, Inc. (“Plaintiff”) sues TikTok Inc.
32
33 (“Defendant”), and alleges as follows:
34

1
2 **THE PARTIES**
3

4 1. Plaintiff is a corporation organized and existing under the laws of the
5 State of California with a principal place of business at 3103 17th Street, Santa
6 Monica, CA 90405.

7 2. Defendant is a corporation organized and existing under the laws of
8 the State of California with its principal place of business located at 5800 Bristol
9 Parkway, Suite 100, Culver City, CA 90230. Defendant's agent for service of
10 process is 1505 Corporation CSC – LAWYERS INCORPORATING SERVICE,
11 2710 Gateway Oaks Drive, Sacramento, CA 95833.

12 **JURISDICTION AND VENUE**
13

14 3. This Court has subject matter jurisdiction over this action pursuant to
15 28 U.S.C. §§ 1331 and 1338(a).

16 4. This Court has personal jurisdiction over Defendant because it
17 maintained sufficient minimum contacts with this State such that the exercise of
18 personal jurisdiction over it would not offend traditional notions of fair play and
19 substantial justice.

20 5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a)
21 because Defendant or its agents reside or may be found in this district. “The Ninth
22 Circuit has interpreted Section 1400(a) to mean that venue is proper in any judicial
23

district in which the defendant would be amenable to personal jurisdiction.” Righthaven LLC v. Inform Techs., Inc., No. 2:11-CV-00053-KJD-LRL, 2011 U.S. Dist. LEXIS 119379, at *8 (D. Nev. Oct. 14, 2011) (citing Brayton Purcell LLP v. Recordon & Recordon, 606 F.3d 1124, 1128 (9th Cir. 2010)). Venue is thus proper in this District because personal jurisdiction exists over Defendant in this District.

FACTS

I. Plaintiff's Business

6. Plaintiff is a celebrity photography agency, owned and operated by award-winning photojournalist Michael Grecco, that is hired by top-tier media outlets to take photographs of celebrities. Mr. Grecco has photographed legendary musicians, actors, directors, Olympians, technologists, comedians, athletes, fashion models and automobiles – such as Johnny Cash, Steven Spielberg, Will Smith, Chris Rock, Penelope Cruz, Steve Martin, Olympian Janet Evans, the SnapChat Founders, and Porsche’s 911 sports automobile.

7. Mr. Grecco's photographs are widely published in some of the world's most prominent magazines, including but not limited to, *Vanity Fair*, *Rolling Stone*, *ESPN Magazine*, *Time*, *Forbes* and *Esquire*.

8. Using state-of-the-art equipment and signature lighting techniques, Mr. Grecco creates high-end photography licensed by some of the top publishers

1 in this Country. When commissioned for a job, Mr. Grecco spends countless hours
2 capturing hundreds of photographs and then processing those photographs to
3 ensure they meet customers' requirements.
4

5 9. Plaintiff maintains a commercial website (<https://grecco.com/>) which
6 describes the photography services offered by Mr. Grecco, hosts a sample portfolio
7 of photographs taken and cinemagraphs created by Mr. Grecco, and invites
8 prospective customers to contact Plaintiff to arrange for a professional photo shoot.
9

10 10. Plaintiff owns the photographs and serves as the licensing agent with
11 respect to licensing such photographs. Plaintiff was formed in 1998 as "Michael
12 Grecco Photography, Inc." At that time, Mr. Grecco transferred the rights with
13 respect to his existing copyrights (pursuant to a written assignment agreement) to
14 Michael Grecco Photography, Inc. In 2012, the company name was formally
15 changed to Michael Grecco Productions, Inc. to accommodate for the expansion
16 into motion productions in addition to photography. Later, in 2014, Plaintiff
17 created "Michael Grecco Photography" as a d/b/a of Plaintiff.
18

19 11. Plaintiff licenses its photographs on an exclusive and non-exclusive
20 basis to top-tier media outlets. Plaintiff has licensed individual images of
21 celebrities for thousands of dollars to major top-tier outlets.
22

II. The Work at Issue in this Lawsuit

The First Photograph

1 12. In 1997, Plaintiff created a professional photograph of New Zealand
2 actress Lucy Lawless as Xena the Warrior Princess titled
3 “19970506_Xena_Lawless_Lucy_MGP_0001” (the “First Photograph”). A copy
4 of the First Photograph is displayed below:



19 13. The First Photograph was registered by Plaintiff with the Register of
20 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
21 true and correct copy of the Certificate of Registration pertaining to the First
22 Photograph is attached hereto as Exhibit “A.”
23
24

1 ***The Second Photograph***

2 14. In 1997, Plaintiff created a professional photograph of New Zealand
3 actress Lucy Lawless as Xena the Warrior Princess titled
4 “19970506_Xena_lawless_lucy_MGP_0003” (the “Second Photograph”). A copy
5 of the Second Photograph is displayed below:



21 15. The Second Photograph was registered by Plaintiff with the Register
22 of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698.

1 A true and correct copy of the Certificate of Registration pertaining to the Work is
2 attached hereto as **Exhibit “A.”**
3

4 ***The Third Photograph***

5 16. In 1997, Plaintiff created a professional photograph of American
6 Actor Andy Garcia titled “19970503_Garcia_Any_MGP_0001” (the “Third
7 Photograph”). A copy of the Third Photograph is displayed below:
8



19 17. The Third Photograph was registered by Plaintiff with the Register of
20 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
21 true and correct copy of the Certificate of Registration pertaining to the Third
22 Photograph is attached hereto as **Exhibit “A.”**
23
24

1 ***The Fourth Photograph***

2 18. In 1997, Plaintiff created a professional photograph of American
3 vocal girl group En Vogue titled “19910622_En_Vogue_MGP_0010” (the “Fourth
4 Photograph”). A copy of the Fourth Photograph is displayed below:



19. The Fourth Photograph was registered by Plaintiff with the Register
of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698.
A true and correct copy of the Certificate of Registration pertaining to the Fourth
Photograph is attached hereto as **Exhibit “A.”**

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458

459

460

461

462

463

464

465

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

515

516

517

518

519

520

521

522

523

524

525

526

527

528

529

530

531

532

533

534

535

536

537

538

539

540

541

542

543

544

545

546

547

548

549

550

551

552

553

554

555

556

557

558

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582

583

584

585

586

587

588

589

590

591

592

593

594

595

596

597

598

599

600

601

602

603

604

605

606

607

608

609

610

611

612

613

614

615

616

617

618

619

620

621

622

623

624

625

626

627

628

629

630

631

632

633

634

635

636

637

638

639

640

641

642

643

644

645

646

647

648

649

650

651

652

653

654

655

656

657

658

659

660

661

662

663

664

665

666

667

668

669

670

671

672

673

674

675

676

677

678

679

680

681

682

683

684

685

686

687

688

689

690

691

692

693

694

695

696

697

698

699

700

701

702

703

704

705

706

707

708

709

710

711

712

713

714

715

716

717

718

719

720

721

722

723

724

725

726

727

728

729

730

731

732

733

734

735

736

737

738

739

740

741

742

743

744

745

746

747

748

749

750

751

752

753

754

755

756

757

758

759

760

761

762

763

764

765

766

767

768

769

770

771

772

773

774

775

776

777

778

779

780

781

782

783

784

785

786

787

788

789

790

791

792

793

794

795

796

797

798

799

800

801

802

803

804

805

806

807

808

809

810

811

812

813

814

815

816

817

818

819

820

821

822

823

824

825

826

827

828

829

830

831

832

833

834

835

836

837

838

839

840

841

842

843

844

845

846

847

848

849

850

851

852

853

854

855

856

857

858

859

860

861

862

863

864

865

866

867

868

869

870

871

872

873

874

875

876

877

878

879

880

881

882

883

884

885

886

887

888

889

890

891

892

893

894

895

896

897

898

899

900

901

902

903

904

905

906

907

908

909

910

911

912

913

914

915

916

917

918

919

920

921

922

923

924

925

926

927

928

929

930

931

932

933

934

935

936

937

938

939

940

941

942

943

944

945

946

947

948

949

950

951

952

953

954

955

956

957

958

959

960

961

962

963

964

965

966

967

968

969

970

971

972

973

974

975

976

977

978

979

980

981

982

983

984

985

986

987

988

989

990

991

992

993

994

995

996

997

998

999

1000

1 20. In 1997, Plaintiff created a professional photograph of American new
2 wave band ‘Til Tuesday titled
3
4 “19850101_Til_Tuesday_Mann_Aimee_MGP_0006” (the “Fifth Photograph”).

5 A copy of the Fifth Photograph is displayed below:



6
7 21. The Fifth Photograph was registered by Plaintiff with the Register of
8 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
9 true and correct copy of the Certificate of Registration pertaining to the Fifth
10
11 Photograph is attached hereto as **Exhibit “A.”**

12
13
14
15
16
The Sixth Photograph

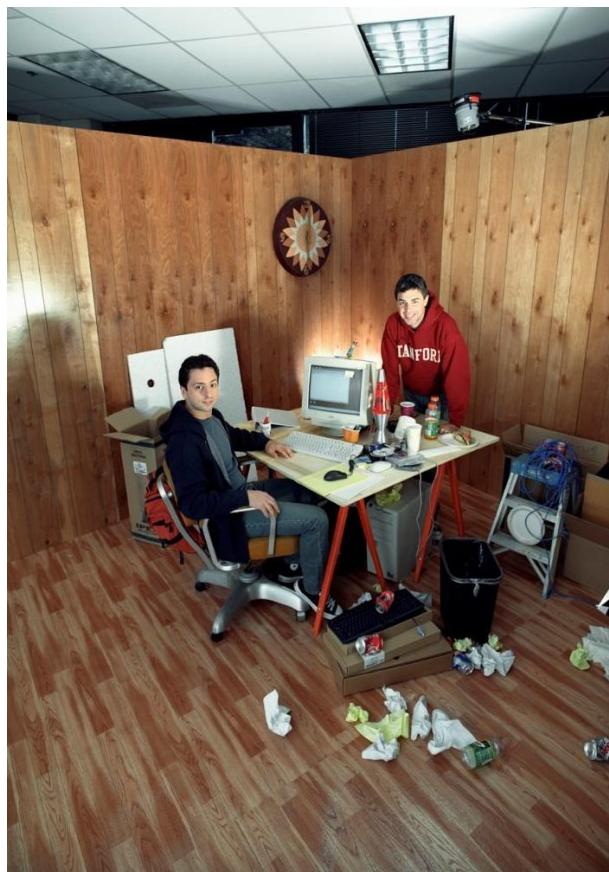
1 22. In 1997, Plaintiff created a professional photograph of American
2 director and actor Quentin Tarantino titled “Tarantino_Quentin_MGP_003” (the
3 “Sixth Photograph”). A copy of the Sixth Photograph is displayed below:
4



17 23. The Sixth Photograph was registered by Plaintiff with the Register of
18 Copyrights on July 7, 2010 and was assigned Registration No. VA 1-431-698. A
19 true and correct copy of the Certificate of Registration pertaining to the Sixth
20 Photograph is attached hereto as Exhibit “A.”
21

22 23 ***The Seventh Photograph***
24

1 24. In 2002, Plaintiff created a professional photograph of Google
2 founders, Larry Page and Sergey Brin titled
3 “20021022_Google_Founders_MGP_0003” (the “Seventh Photograph”). A copy
4 of the Seventh Photograph is displayed below:



19 25. The Seventh Photograph was registered by Plaintiff with the Register
20 of Copyrights on November 18, 2002 and was assigned Registration No. VAu 590-
21 445. A true and correct copy of the Certificate of Registration pertaining to the
22 Seventh Photograph is attached hereto as Exhibit “B.”

24 *The Eighth Photograph*

1 26. In 1997, Plaintiff created a professional photograph of New Zealand
2 actress Lucy Lawless as Xena the Warrior Princess titled
3 “19970506_Xena_Lawless_Lucy_MGP_0043” (the “Eighth Photograph”). A
4 copy of the Eighth Photograph is displayed below:



19 27. The Eighth Photograph was registered by Plaintiff with the Register
20 of Copyrights on August 29, 2017 and was assigned Registration No. VA 2-064-
21 915. A true and correct copy of the Certificate of Registration pertaining to the
22 Eighth Photograph is attached hereto as Exhibit “C.”

24 ***The Ninth Photograph***

1 28. In 1997, Plaintiff created a professional photograph of New Zealand
2 actress Lucy Lawless as Xena the Warrior Princess titled
3 “19970506_Xena_Lawless_Lucy_MGP_0015” (the “Ninth Photograph”). A copy
4 of the Ninth Photograph is displayed below:



5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 29. The Ninth Photograph was registered by Plaintiff with the Register of
20 Copyrights on January 19, 2017 and was assigned Registration No. VA 2-030-740.
21 A true and correct copy of the Certificate of Registration pertaining to the Ninth
22 Photograph is attached hereto as **Exhibit “D.”**

23
24 ***The Tenth Photograph***

1 30. In 1997, Plaintiff created a professional photograph of New Zealand
2 actress Lucy Lawless as Xena the Warrior Princess titled
3 “19970506_Xena_Lawless_Lucy_MGP_0005” (the “Tenth Photograph”). A copy
4 of the Tenth Photograph is displayed below:



16 31. The Tenth Photograph was registered by Plaintiff with the Register of
17 Copyrights on January 19, 2017 and was assigned Registration No. VA 2-030-740.
18 A true and correct copy of the Certificate of Registration pertaining to the Tenth
19 Photograph is attached hereto as Exhibit “D.”

21 ***The Eleventh Photograph***

22 32. In 1998, Plaintiff created a professional photograph of American
23 actors Jerry O’Connell, Cleavant Derricks, Sabrina Anne Lloyd, and Charlie
24

1 O'Connell as the cast of the television series Sliders titled
2 “19971209_Sliders_Cast_MGP_0008” (the “Eleventh Photograph”). A copy of
3 the Eleventh Photograph is displayed below:



19 33. The Eleventh Photograph was registered by Plaintiff with the Register
20 of Copyrights on August 20, 2017 and was assigned Registration No. VA 2-064-
21 693. A true and correct copy of the Certificate of Registration pertaining to the
22 Eleventh Photograph is attached hereto as **Exhibit “E.”**

23
24 ***The Twelfth Photograph***

1 34. In 1998, Plaintiff created a professional photograph of American
2 actress Gillian Anderson titled “9930625_Anderson_Gillian_MGP_0006” (the
3 “Twelfth Photograph”). A copy of the Twelfth Photograph is displayed below:



17 35. The Twelfth Photograph was registered by Plaintiff with the Register
18 of Copyrights on July 27, 2017 and was assigned Registration No. VA 2-063-319.
19 A true and correct copy of the Certificate of Registration pertaining to the Twelfth
20 Photograph is attached hereto as Exhibit “F.”

23 ***The Thirteenth Photograph***

1 36. In 2008, Plaintiff created a professional photograph of American actor
2 and musician Johnny Depp titled “19940708_Depp_Johnny_MGP_0010” (the
3 “Thirteenth Photograph”). A copy of the Thirteenth Photograph is displayed
4 below:



18 37. The Thirteenth Photograph was registered by Plaintiff with the
19 Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-
20 736-729. A true and correct copy of the Certificate of Registration pertaining to
21 the Thirteenth Photograph is attached hereto as Exhibit “G.”

23 ***The Fourteenth Photograph***

1 38. In 2008, Plaintiff created a professional photograph of American
2 singer Michael Jackson titled “19890127_Jackson_Michael_MGP_0005” (the
3 “Fourteenth Photograph”). A copy of the Fourteenth Photograph is displayed
4 below:



14 39. The Fourteenth Photograph was registered by Plaintiff with the
15 Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-
16 736-729. A true and correct copy of the Certificate of Registration pertaining to
17 the Fourteenth Photograph is attached hereto as **Exhibit “G.”**

19 ***The Fifteenth Photograph***

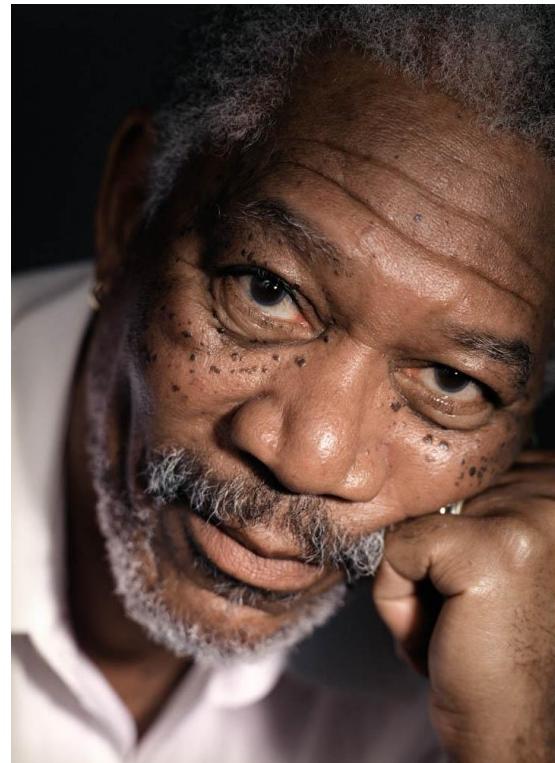
20 40. In 2008, Plaintiff created a professional photograph of American
21 singer Michael Jackson titled “19890127_Jackson_Michael_MGP_0001” (the
22 “Fifteenth Photograph”). A copy of the Fifteenth Photograph is displayed below:
23



41. The Fifteenth Photograph was registered by Plaintiff with the Register
of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-736-729.
A true and correct copy of the Certificate of Registration pertaining to the Fifteenth
Photograph is attached hereto as **Exhibit “G.”**

The Sixteenth Photograph

42. In 2004, Plaintiff created a professional photograph of American
Actor Morgan Freeman titled “20040525_Freeman_Morgan_MGP_0002” (the
“Sixteenth Photograph”). A copy of the Sixteenth Photograph is displayed below:



43. The Sixteenth Photograph was registered by Plaintiff with the Register of Copyrights on May 28, 2004 and was assigned Registration No. VAU 630-623. A true and correct copy of the Certificate of Registration pertaining to the Sixteenth Photograph is attached hereto as **Exhibit “H.”**

The Seventeenth Photograph

44. In 1980, Plaintiff created a professional photograph of British Rock Band Siouxsie and the Banshees titled “19800101_Siouxsie_and_the_Banshees_MGP_0001” (the “Seventeenth Photograph”). A copy of the Seventeenth Photograph is displayed below:



45. The Seventeenth Photograph was registered by Plaintiff with the
10 Register of Copyrights on March 4, 2019 and was assigned Registration No. VAu
11 1-397-398. A true and correct copy of the Certificate of Registration pertaining to
12 the Seventeenth Photograph is attached hereto as **Exhibit “I.”**

13
14 ***The Eighteenth Photograph***

15 46. In 1980, Plaintiff created a professional photograph of Singaporean
16 martial artist and actor Jet Li titled “19981009_Li_Jet_MGP_0006” (the
17 “Eighteenth Photograph”). A copy of the Eighteenth Photograph is displayed
18 below:
19
20
21
22
23
24



47. The Eighteenth Photograph was registered by Plaintiff with the
12 Register of Copyrights on December 10, 2001 and was assigned Registration No.
13 VA 1-148-989. A true and correct copy of the Certificate of Registration pertaining
14 to the Eighteenth Photograph is attached hereto as Exhibit “J.” The Registration
15 indicates that the Certificate of Registration covers an Internet Website; however,
16 as evidenced by the deposit materials submitted with the copyright registration, the
17 photograph at issue is covered by such Registration and therefore afforded
18 protection/registration under the Copyright Act by virtue of this Certificate of
19 Registration.

20
21
22
23 ***The Nineteenth Photograph***

1 48. In 1993, Plaintiff created a professional photograph of actors Gillian
2 Anderson and David Duchovny titled “19950310_X-
3 Files_The_MGP_Fox_TS_0003” (the “Nineteenth Photograph”). A copy of the
4 Nineteenth Photograph is displayed below:



19 49. The Nineteenth Photograph was registered by Plaintiff with the
20 Register of Copyrights on January 22, 2017 and was assigned Registration No. VA
21 2-030-741. A true and correct copy of the Certificate of Registration pertaining to
22 the Nineteenth Photograph is attached hereto as **Exhibit “K.”**

24 ***The Twentieth Photograph***

1 50. In 1993, Plaintiff created a professional photograph of actors Gillian
2 Anderson and David Duchovny titled “19930625_X-Files_The_MGP_0010” (the
3 “Twentieth Photograph”). A copy of the Twentieth Photograph is displayed
4 below:



18 51. The Twentieth Photograph was registered by Plaintiff with the
19 Register of Copyrights on January 22, 2017 and was assigned Registration No. VA
20 2-030-741. A true and correct copy of the Certificate of Registration pertaining to
21 the Twentieth Photograph is attached hereto as Exhibit “K.”

23 ***The Twenty-First Photograph***

1 52. In 1995, Plaintiff created a professional photograph of actors Gillian
2 Anderson and David Duchovny titled “19950310_X-Files_The_MGP_0007” (the
3 “Twenty-First Photograph”). A copy of the Twenty-First Photograph is displayed
4 below:

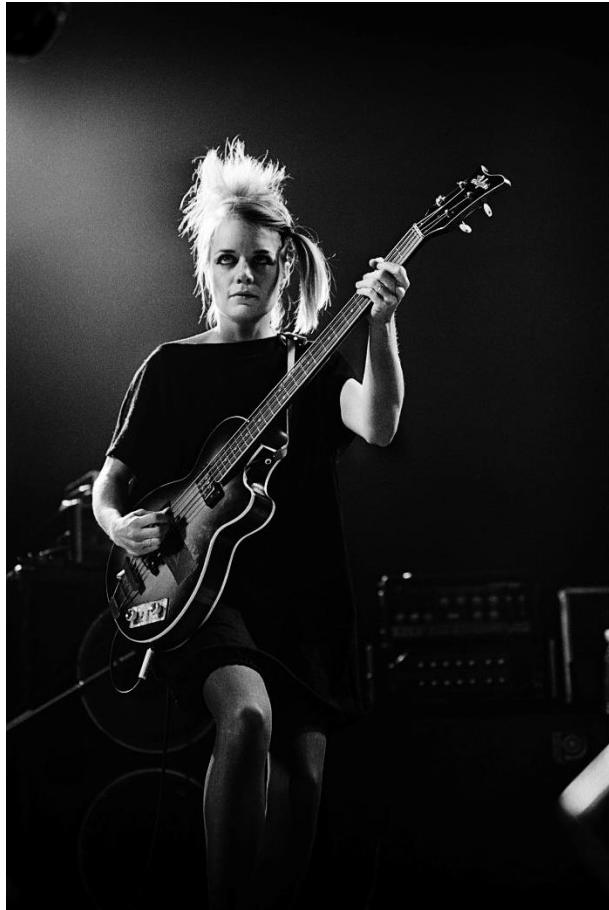


5 53. The Twenty-First Photograph was registered by Plaintiff with the
6 Register of Copyrights on September 8, 2003 and was assigned Registration No.
7 VA 1-232-596. A true and correct copy of the Certificate of Registration pertaining
8 to the Twenty-First Photograph is attached hereto as **Exhibit “L.”**

9
10 ***The Twenty-Second Photograph***

11 54. In 2010, Plaintiff created a professional photograph of bass player
12 Tina Weymouth of American band Talking Heads titled
13
14

1 “19800101_Talking_Heads_MGP_0008” (the “Twenty-Second Photograph”). A
2 copy of the Twenty-Second Photograph is displayed below:
3
4
5
6
7
8
9
10
11
12
13
14
15
16



17
18 55. The Twenty-Second Photograph was registered by Plaintiff with the
19 Register of Copyrights on July 7, 2010 and was assigned Registration No. VA 1-
20 431-699. A true and correct copy of the Certificate of Registration pertaining to
21 the Twenty-Second Photograph is attached hereto as Exhibit “M.”
22
23
24

1 56. The First Photograph, Second Photograph, Third Photograph, Fourth
2 Photograph, Fifth Photograph, Sixth Photograph, Seventh Photograph, Eighth
3 Photograph, Ninth Photograph, Tenth Photograph, Eleventh Photograph, Twelfth
4 Photograph, Thirteenth Photograph, Fourteenth Photograph, Fifteenth Photograph,
5 Sixteenth Photograph, Seventeenth Photograph, Eighteenth Photograph,
6 Nineteenth Photograph, Twentieth Photograph, Twenty-First Photograph, and
7 Twenty-Second Photograph are collectively referred to herein as the "Work."
8
9

10 57. Plaintiff is the owner of the Work and has remained the owner at all
11 times material hereto.
12

13 **II. Defendant's Unlawful Activities**

14 58. Defendant is an online social media company focused on short-form
15 video hosting services.

16 59. Defendant hosts user-submitted videos through its social media app
17 (e.g., <https://apps.apple.com/us/app/tiktok/id835599320>) and website
18 (<https://www.tiktok.com/>).
19

20 60. On multiple dates after each photograph comprising the Work was
21 registered, one or more of Defendant's users caused each photograph comprising
22 the Work to be displayed/published on Defendant's social media app/website
23 platform.
24

61. A true and correct copy of screenshots of Defendant's website, displaying the copyrighted Work, is attached hereto as **Exhibit "N."**

62. Following discovery of the photographs comprising the Work on Defendant's website/social media app, Plaintiff fully complied with 17 U.S.C. § 512 by sending multiple Digital Millennium Copyright Act (the "DMCA") takedown notices to Defendant through its designated agent.

63. Notwithstanding Plaintiff's multiple attempts (over a period of months) to get Defendant to take down the unauthorized use of the Work, Defendant failed and/or refused to remove the Work from its website/social media app.

64. All conditions precedent to this action have been performed or have been waived.

COUNT I – COPYRIGHT INFRINGEMENT

65. Plaintiff re-alleges and incorporates paragraphs 1 through 23 as set forth above.

66. Each photograph comprising the Work is an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

67. Plaintiff owns a valid copyright in each photograph comprising the Work, having registered the Work with the Register of Copyrights and owning

1 sufficient rights, title, and interest to such copyright to afford Plaintiff standing to
2 bring this lawsuit and assert the claim(s) herein.

3 68. As a result of Plaintiff's reproduction, distribution, and public display
4 of the Work, Defendant had access to the Work prior to its own reproduction,
5 distribution, and public display of the Work on its website, webpage, and/or social
6 media.

7 69. Defendant reproduced, distributed, and publicly displayed the Work
8 without authorization from Plaintiff.

9 70. By its actions, Defendant infringed and violated Plaintiff's exclusive
10 rights in violation of the Copyright Act, 17 U.S.C. § 501, by reproducing,
11 distributing, and publicly displaying the Work for its own commercial purposes.

12 58. Alternatively, to the extent Defendant did not directly infringe
13 Plaintiff's rights in the Work, Defendant is liable for vicarious infringement.¹

14 59. Defendant has the right and ability to control the infringing acts of its
15 users yet declined or failed to stop its users from engaging in its infringing activity.

19

20 ¹ “[T]he Copyright Act does not specifically render a third person liable for another person's infringement
21 ... [vicarious and contributory copyright infringement] emerged from common law principles and are well
22 established in the law.” Luvdarts, Ltd. Liab. Co. v. AT&T Mobility, Ltd. Liab. Co., 710 F.3d 1068 (9th Cir.
23 2013). For a defendant to be secondarily liable, the plaintiff must establish that there has been direct infringement
24 by a third party. Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146 (9th Cir. 2007), “Vicarious liability
attaches if the Carriers had both the (1) “right and ability to supervise the infringing activity” and (2) “a direct
financial interest” in the activity; see also Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd., 545 U.S. 913,
930-31 (2005) (“Liability for vicarious copyright infringement arises ... even if the defendant initially lacks
knowledge of the infringement.”); A&M Records, Inc. v. Napster Inc., 239 F.3d 1004, 1022 (9th Cir. 2001)
 (“Vicarious copyright liability is an “outgrowth” of respondeat superior.”).

1 60. Defendant has a direct financial interest in the profits from the
2 infringing activity. A direct financial interest can involve increased traffic.

3 61. Alternatively, to the extent Defendant did not directly infringe
4 Plaintiff's rights in the Work, Defendant is liable for contributory infringement.

5 62. “[T]he Copyright Act does not specifically render a third person
6 liable for another person's infringement ... [vicarious and contributory copyright
7 infringement] emerged from common law principles and are well established in
8 the law.” Luvdarts, Ltd. Liab. Co. v. AT&T Mobility, Ltd. Liab. Co., 710 F.3d
9 1068 (9th Cir. 2013). For a defendant to be secondarily liable, the plaintiff must
10 establish that there has been direct infringement by a third party. Perfect 10, Inc.
11
12 v. Amazon.com, Inc., 508 F.3d 1146 (9th Cir. 2007),

13 63. “Liability for contributory copyright infringement attaches if the
14 Carriers (1) knew of the direct infringement; and (2) they either induced, caused,
15 or materially contributed to the infringing conduct.”
16
17 Luvdarts, Ltd. Liab. Co. v. AT&T Mobility, Ltd. Liab. Co., 710 F.3d 1068 (9th
18 Cir. 2013)

19 64. Thus, assuming Defendant did not directly infringe, Defendant
20 caused or materially contributed to its users' infringing activity. Defendant failed
21 to remove the infringements while having actual knowledge the material was
22 copyright protected. Williams v. Scribd, Inc., No. 09cv1836-LAB (WMC), 2010

1 U.S. Dist. LEXIS 90496 (S.D. Cal. June 23, 2010) (explaining that the mere
2 failure to remove an infringing item suffices a material contribution analysis).

3 71. Defendant's infringement was willful as it acted with actual
4 knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's
5 copyright. Notably, Defendant itself utilizes a copyright disclaimer on its website
6 ("© 2024 TikTok"), indicating that Defendant understands the importance of
7 copyright protection and intellectual property rights and is actually representing
8 that it owns each of the photographs published on its website. See, e.g., Bell v.
9 ROI Prop. Grp. Mgmt., LLC, No. 1:18-cv-00043-TWP-DLP, 2018 U.S. Dist.
10 LEXIS 127717, at *3 (S.D. Ind. July 31, 2018) ("[T]he willfulness of ROI's
11 infringement is evidenced by the fact that at the bottom of the webpage on which
12 the Indianapolis photograph was unlawfully published appeared the following:
13 'Copyright © 2017.' By placing a copyright mark at the bottom of its webpage that
14 contained Mr. Bell's copyrighted Indianapolis Photograph, Mr. Bell asserts ROI
15 willfully infringed his copyright by claiming that it owned the copyright to
16 everything on the webpage."); John Perez Graphics & Design, LLC v. Green Tree
17 Inv. Grp., Inc., Civil Action No. 3:12-cv-4194-M, 2013 U.S. Dist. LEXIS 61928,
18 at *12-13 (N.D. Tex. May 1, 2013) ("Once on Defendant's website, Defendant
19 asserted ownership of Plaintiff's Registered Work by including a copyright notice
20 at the bottom of the page. Based on these allegations, the Court finds Plaintiff has
21
22
23
24

1 sufficiently pled a willful violation....”).

2 72. Additionally, Defendant is registered under the Digital Millennium
3 Copyright Act (“DMCA”) and thus, Defendant clearly understands that
4 professional photography such as the Work is generally paid for and cannot simply
5 be copied from the internet.

6 73. Plaintiff has been damaged as a direct and proximate result of
7 Defendant’s infringement.

8 74. Plaintiff is entitled to recover its actual damages resulting from
9 Defendant’s unauthorized use of the Work and, at Plaintiff’s election (pursuant to
10 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a
11 disgorgement of Defendant’s profits from infringement of the Work, which
12 amounts shall be proven at trial.

13 75. Alternatively, and at Plaintiff’s election, Plaintiff is entitled to
14 statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed
15 proper by the Court.

16 76. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover its
17 costs and attorneys’ fees as a result of Defendant’s conduct.

18 77. Defendant’s conduct has caused, and any continued infringing
19 conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by
20 the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502,
21
22
23
24

1 Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's
2 exclusive rights under copyright law.

3 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- 4 a. A declaration that Defendant has infringed Plaintiff's copyrights in the
5 Work;
- 6 b. A declaration that such infringement is willful;
- 7 c. An award of actual damages and disgorgement of profits as the Court deems
8 proper or, at Plaintiff's election, an award of statutory damages for willful
9 infringement up to \$150,000.00 for each photograph comprising the Work;
- 10 d. Awarding Plaintiff its costs and reasonable attorneys' fees pursuant to 17
11 U.S.C. § 505;
- 12 e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing
13 amounts;
- 14 f. Permanently enjoining Defendant, its employees, agents, officers, directors,
15 attorneys, successors, affiliates, subsidiaries and assigns, and all those in
16 active concert and participation with Defendant, from directly or indirectly
17 infringing Plaintiff's copyrights or continuing to display, transfer, advertise,
18 reproduce, or otherwise market any works derived or copied from the Work
19 or to participate or assist in any such activity; and
- 20 g. For such other relief as the Court deems just and proper.

1
2 DATED: August 15, 2024.

COPYCAT LEGAL PLLC

3 By: /s/ Lauren M. Hausman

4
5 LAUREN M. HAUSMAN
6 Attorney for Plaintiff
7 Michael Grecco Productions, Inc.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24